



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 6827

April 6, 2009

Mr. Russ Mull, Director
Department of Resource Management
Environmental Health Division
1855 Placer Street, Suite 201
Redding, California 96001

Dear Mr. Mull:

The California Environmental Protection Agency (Cal/EPA), State Water Resources Control Board (SWRCB), the Department of Toxic Substances Control (DTSC), and the California Emergency Management Agency (formerly OES) conducted a program evaluation of the Shasta County Certified Unified Program Agency (CUPA) on February 10 and February 11, 2009. The evaluation consisted of a review of program elements, an in-office program review, and field oversight inspections by State evaluators. The evaluator[s] completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

Cal/EPA has received documentation of corrective actions taken by Shasta County for the deficiencies found during the evaluation process. After reviewing the Evaluation Summary of Findings and the documentation of corrective actions, Cal/EPA finds that all deficiencies noted in the Evaluation Summary of Findings have been corrected.

Cal/EPA appreciates the actions taken by Shasta County. Based on these corrections, Cal/EPA has modified Shasta County's rating on the evaluation from satisfactory with some improvement needed to meets program performance standards.

Thank you for your continued commitment to the protection of public health and the environment. If you have any questions or need further assistance, you may contact Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or jbohon@calepa.ca.gov.

Sincerely,

[Original Signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

cc: Please see next page.

Mr. Russ Mull
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cc: Sent via email

Ms. Marci McEwen
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Mr. Russ Mull
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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: SHASTA COUNTY ENVIRONMENTAL HEALTH DIVISION

Evaluation Date: February 10 and 11, 2009

EVALUATION TEAM

Cal/EPA: Mary Wren-Wilson and Jennifer Lorenzo
SWRCB: Sean Farrow
CalEMA (formerly OES): Jack Harrah
DTSC: Mark Pear

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. Questions or comments can be directed to Mary Wren-Wilson at (916) 323-2204.

	<u>Deficiency</u>	<u>Corrective Action</u>
1	<p>The CUPA's Inspection and Enforcement (I&E) Program Plan does not contain a required element. The I&E Program Plan is missing the identification of all enforcement options used by the CUPA. For example, the use of red tags for the underground storage tank (UST) program is not identified, but has been used by the CUPA. The CUPA has also adopted the administrative enforcement order (AEO) for the hazardous waste generator and tiered permit programs. In addition, the CUPA identifies "toxi-ticket" as one of the enforcement options; however, the CUPA no longer uses this option.</p> <p>CCR, Title 27, Section 15200 (a)(6) [Cal/EPA]</p>	<p>The CUPA has already begun revising it's I&E Program Plan.</p> <p>By May 12, 2009, the CUPA will revise it's I&E Program Plan to include all available enforcement options for all program elements.</p> <p><u><i>Deficiency corrected March 18, 2009 with submittal of revised Inspection and Enforcement Program Plan.</i></u></p>
2	<p>The CUPA has not inspected all stationary sources subject to the California Accidental Release Prevention (CalARP) program within the last three years.</p> <p>HSC, Chapter 6.95, Section 25537 (a) [CalEMA]</p>	<p>By August 10, 2009, the CUPA will submit a plan that will outline how the three-year inspection frequency will be achieved and maintained. Include the Risk Management Plan (RMP) evaluation review for new stationary sources, pursuant to California Code of Regulations title 19, section 2745.2.</p> <p><u><i>Deficiency corrected with information submitted March 18, 2009.</i></u></p>

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3	<p>The CUPA has not inspected one of three tiered permitting (TP) facilities within the state mandated triennial inspection frequency.</p> <p>HSC, Chapter 6.5, Section 25201.4 (b)(2) [DTSC]</p>	<p>The CUPA shall ensure that all TP facilities are inspected at least once every three years. The CUPA will indicate when the goal has been achieved in the next fiscal year (FY) 2008/2009 Annual Inspection Summary Report 3.</p> <p><u>Deficiency corrected with information submitted March 18, 2009.</u></p>
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CUPA Representative

Jim Whittle
(Print Name)

Original Signed
(Signature)

Evaluation Team Leader

Mary Wren-Wilson
(Print Name)

Original Signed
(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations provided in this section address activities that are not specifically required of the CUPA by statute or regulation. The recommendations, if any, are provided for continuous improvement and it is the CUPA's decision whether or not to follow the recommendations.

- 1. Observation:** The CUPA's staff receives relevant ongoing training; however, the training documentation of its staff is inconsistent. One staff's record of training included a folder containing the training certificate or attendance documentation of seminars, conferences or workshops. Additionally, a list of the trainings attended is chronologically entered onto a sheet in the folder but has not been updated for several years. For another staff, only the training certificate or attendance documentation was maintained in the staff's file.

Recommendation: Cal/EPA recommends that the CUPA develop a uniform format to document the trainings received by its staff members and ensure that each staff continues to receive relevant ongoing training. For seminars or conferences with multiple training events, include the individual classes attended and the number of hours for each class. Also, ensure that all dates include the year.

- 2. Observation:** The CUPA regularly attends technical advisory group meetings, northern CUPA Forum Board, and environmental crimes task force meetings. The senior environmental health specialist is currently the northern region CUPA Forum Board chair and also an alternate CUPA Forum Board member. The CUPA staff also regularly attends the annual Unified Program training conference.

Recommendation: Cal/EPA recommends that the CUPA continue to attend Unified Program-related functions and events for consistency, consolidation, and coordination within the Unified Program.

- 3. Observation:** The CUPA's 2008 area plan was completed before the Senate Bill (SB) 391 regulations were finalized, and thus was not required to contain the pesticide drift content.

Recommendation: CalEMA recommends that the next revision of the area plan, required by April 2011, must include the SB391-mandated protocols (California Code of Regulations title 19, sections 2720 through 2728). Further, the reporting form required by California Code of Regulations title 19, section 2720 should be filled out.

- 4. Observation:** The CUPA's underground storage tank (UST) inspection report form provides a place to note an owner's or facility representative's consent to inspect the facility, but the consent box is not regularly checked.

Recommendation: SWRCB recommends that the CUPA receives and notes consent to inspect on all inspection reports. Documentation of consent serves to strengthen any potential enforcement case defeating any potential challenge that the fourth amendment may have been abridged.

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- 5. Observation:** The CUPA has access to and routinely uses a camera to document violations.

Recommendation: Photographs are useful to document violations and the conditions at facilities. Photographs could help strengthen your case should enforcement become necessary. Always remember to date stamp photographs.

- 6. Observation:** The CUPA inspector, Mr. Neil Sullivan, conducted the UST site inspection in a thorough and professional manner. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. Mr. Sullivan is to be commended on his working relationship with both the facility owner and the technician performing the monitoring certification.

Recommendation: The SWRCB recommends that the CUPA continue to conduct thorough inspections.

- 7. Observation:** The CUPA's inspection frequency has greatly increased over the last three fiscal years. During FY 2005/2006, the CUPA inspected 84 percent of its UST facilities. In FY 2006/2007, the CUPA inspected 90 percent of its UST sites. Lastly, the CUPA inspected 100 percent during FY 2007/2008.

Recommendation: The SWRCB recommends that the CUPA continue to strive for a 100 percent inspection rate on UST facilities.

- 8. Observation:** The CUPA has greatly increased its business plan inspections since the last CUPA evaluation in October 2005. The CUPA has met or exceeded the inspection frequency for its business plan facilities within the last three fiscal years.

Recommendation: CalEMA recommends that the CUPA continue to conduct its business plan inspections triennially.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The Shasta County CUPA has consistently implemented its enforcement program within the last three fiscal years. Although the CUPA's goal continues to be voluntary compliance (through return to compliance) by the regulated facilities, the CUPA has referred cases to the California District Attorneys Association Environmental Circuit Prosecutor's office for formal enforcement. Within the last three fiscal years, the CUPA has referred 17 cases for civil or criminal prosecution against business plan, underground storage tank, and hazardous waste generator facilities. Additionally, the CUPA has issued 12 red tags against UST facilities within the last three fiscal years. The CUPA hopes to utilize the AEO process now that it has been adopted by the CUPA. Examples of the formal enforcements taken by the are as follows:
 - a. Referred a civil enforcement case to the district attorney's (DA's) office against Western Truck Parts & Equipment Co., which was adjudicated for \$30,000 for the facility failing to submit a revised hazardous materials business plan, failing to hold hazardous waste training, failing to properly close a hazardous waste antifreeze tank, failing to label used oil filter drums, failing to complete daily tank inspections, and failing to properly dispose of parts washer solution.
 - b. Referred a civil enforcement case to the DA's office against Fife Metal Fabricating Inc., which was adjudicated for \$15,000 for the facility failing to obtain an EPA identification number, failing to properly characterize unidentified waste, and failing to properly label hazardous waste drums.
 - c. Referred a civil enforcement case to the DA's office against Chevron, which was adjudicated for \$50,000 for the facility failing to comply with testing, monitoring, and upgrade requirements for underground hazardous waste storage tanks, the improper storage of hazardous waste, and leaking hazardous waste containers.

2. The Shasta County CUPA generally has an exemplary inspection program:

Business plan inspections observed by CalEMA on February 9, 2009, were thorough and the inspector spent a lot of time ensuring that the businesses understood the requirements of the applicable Unified Program elements. All elements of the business plan were evaluated, with an extensive review of the inventory and site maps. Both the farm and non-agricultural business inspections were also conducted as generator inspections (mostly lubricants), and the inspector checked on universal waste disposal as well.

The hazardous waste generator facility inspection on January 13, 2009 was also thorough. The inspector asked for consent, brought a camera, and covered the entire facility grounds. The violations observed were classified.

The CUPA staff generally takes the time and opportunity to educate and assist the businesses during inspections by leaving DTSC fact sheets and helping to properly fill out forms.

While the CUPA has inspected only a few of its CalARP stationary sources, the inspections performed have been rigorous and thorough, and have included an RMP audit as part of the process.

3. The CUPA has developed an exemption for agricultural handlers pursuant to Health and Safety Code section 25503.5 (c)(3) (exemption of a handler). This exemption allows farm businesses that handle only a specified inventory of hazardous materials to operate with less regulatory oversight, but still provides for adequate protection of human health, safety and the environment.

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4. The Shasta County CUPA has developed a very informative Unified Program Web site. A few examples of downloadable forms are applications for UST permits, installation and removal of tanks, Unified Program Consolidation Forms (UPCF's), a document for the management of waste generated at motor vehicle gas dispensing stations, and many other UST program elements. Inventory forms for the business plan facilities have been revised to include pre-completed fields for commonly reported hazardous materials and for ease of use by regulated facilities.